

EMPLOYER STATUS DETERMINATION
Arkansas Southern Railroad, Inc.

MAR 23 2006

This is the determination of the Railroad Retirement Board concerning the status of Arkansas Southern Railroad, Inc. (ASR), as an employer under the Railroad Retirement Act (45 U.S.C. § 231 et seq.) and the Railroad Unemployment Insurance Act (45 U.S.C. § 351 et seq.).

Information regarding ASR was provided by Craig R. Richey of Watco Companies, Inc., the parent company¹ of ASR. According to Mr. Richey, ASR began operations on October 9, 2005. Six employees received their first compensation on September 19, 2005.

In Surface Transportation Board Finance Docket No. 34760, ASR filed a notice of exemption to lease and operate 61 miles of rail line from Kansas City Southern Railway Company (KCS). ASR interchanges with KCS, an employer under the Acts (B.A. number 1806).

Section 1(a)(1) of the Railroad Retirement Act (45 U.S.C. § 231(a)(1)), insofar as relevant here, defines a covered employer as:

(i) any carrier by railroad subject to the jurisdiction of the Surface Transportation Board under Part A of subtitle IV of title 49, United States Code;

(ii) any company which is directly or indirectly owned or controlled by, or under common control with, one or more employers as defined in paragraph (i) of this subdivision, and which operates any equipment or facility or performs any service (except trucking service, casual service, and the casual operation of equipment or facilities) in connection with the transportation of passengers or property by railroad * * *.

Sections 1(a) and 1(b) of the Railroad Unemployment Insurance Act (45 U.S.C. §§ 351(a) and (b)) contain substantially similar definitions, as does section 3231 of the Railroad Retirement Tax Act (26 U.S.C. § 3231).

¹ Watco Companies, Inc. owns all outstanding shares of Watco Transportation Services, Inc. Watco Transportation Services, Inc., is reported to be the parent company of ASR. Since ASR is covered under the Acts by reason of its being a carrier, not by reason of its ownership, the identity of the parent of ASR does not affect this decision.

The evidence of record establishes that ASR is a carrier operating in interstate commerce. Accordingly, it is determined that ASR is an employer within the meaning of section 1(a)(1)(i) of the Railroad Retirement Act (45 U.S.C. § 231(a)(1)(i)) and the corresponding provision of the Railroad Unemployment Insurance Act as of September 19, 2005, the date as of which it first compensated employees.

Original signed by:

Beatrice Ezerski
FOR THE BOARD
Secretary to the Board